RICK SNYDER GOVERNOR

# STATE OF MICHIGAN DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MICHIGAN ADMINISTRATIVE HEARING SYSTEM Christopher Seppanen Executive Director

SHELLY EDGERTON DIRECTOR



Date Mailed: June 20, 2016 MAHS Docket No.: 16-004237

Agency No.: Petitioner: Department

Respondent:

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

## **HEARING DECISION**

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a telephone hearing was held on May 31, 2016, from Detroit, Michigan. The Department was represented by Recoupment Specialist.

Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Department of Health and Human Services Bridges Administrative Manual (BAM) 725 (October 2015), pp. 1-17.

## <u>ISSUE</u>

Did Respondent receive an over-issuance (OI) of Food Assistance Program (FAP) benefits?

#### FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- Respondent was a recipient of FAP benefits from the Department. See Exhibit A, p. 5.
- On March 9, 2016, the Department sent Respondent a Notice of Overissuance (OI notice) informing her of a FAP overissuance (OI) for the period of

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, due to client error. See Exhibit A, pp. 3-4. The OI notice also indicated that the OI balance was \$2,922 due to Respondent did not report timely that she returned to work after maternity leave. See Exhibit A, p. 3.

- 3. On Respondent filed a hearing request, protesting the Department's action. See Exhibit A, p. 2.
- 4. On the Department requested a debt collection hearing.

# **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

When a client group receives more benefits than it is entitled to receive, MDHHS must attempt to recoup the overissuance (OI). BAM 700 (January 2016), p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715 (January 2016), p. 6.

A client/provider error overissuance is when the client received more benefits than he/she was entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715, p. 1.

In this case, the Department alleges that Respondent failed to timely report her employment and wages to the Department, which caused an overissuance of FAP benefits. It should be noted that it initially appeared as though there were two different employers that Respondent failed to timely report; but the Department indicated that employment income was from a single employer.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (January 2014), p. 9. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 9.

Income reporting requirements are limited to the following:

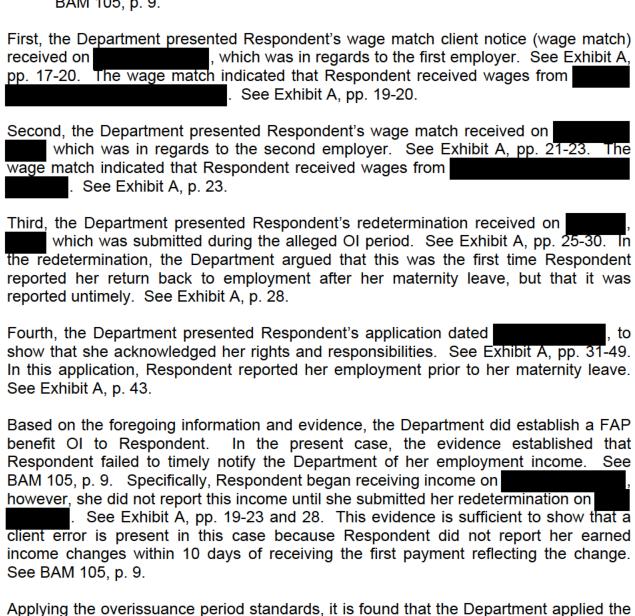
Earned income:

- •• Starting or stopping employment.
- Changing employers.
- Change in rate of pay.
- •• Change in work hours of more than five hours per week that is expected to continue for more than one month.

BAM 105, p. 9.

appropriate OI begin date of

19-23.



Additionally, the Department presented OI budgets for March 2014 to July 2014. See Exhibit A, pp. 6-16. The budgets included Respondent's income that was not previously budgeted. See Exhibit A, pp. 19-23. A review of the OI budgets found them to be fair

See BAM 715, pp. 4-5 and Exhibit A, pp.

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and accurate. As such, the Department is entitled to recoup/collect \$2,922 of FAP benefits for the time period of . See BAM 715, pp. 7-8.

## **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a FAP benefit OI to Respondent totaling \$2,922 for the period of ...

Accordingly, the Department is **AFFIRMED**.

The Department is **ORDERED** to initiate collection procedures for a FAP benefit OI of \$2,922 OI in accordance with Department policy, less any amount already recouped and/or collected.

EF/hw

Eric J. Feldman

Administrative Law Judge for Nick Lyon, Director Department of Health and Human Services

**NOTICE OF APPEAL**: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings Reconsideration/Rehearing Request P.O. Box 30639 Lansing, Michigan 48909-8139 **DHHS** 

Respondent

